

ESTTA Tracking number: **ESTTA84223**

Filing date: **06/07/2006**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92044758
Party	Defendant Melaleuca, Inc. Melaleuca, Inc. 3910 South Yellowstone Highway Idaho Falls, ID 83402
Correspondence Address	Melaleuca, Inc. 3910 South Yellowstone Highway Idaho Falls, ID 83402
Submission	Answer
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Signature	/Krista Weber Powell/
Date	06/07/2006
Attachments	06-06-07 Answer.pdf (4 pages)(74698 bytes)

TRADEMARK

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**In the matter of
Trademark**

Serial No.: 2371074

Cancellation No. 92044758

ECOLAB INC.,

Petitioner,

v.

MELALEUCA, INC.,

Respondent.

Attorney Docket No.: 3162-009

ANSWER TO PETITION TO CANCEL

Respondent, by and through its undersigned attorney, respectfully answers the Petition for Cancellation as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Denied.
5. Denied.
6. Respondent is without sufficient information to admit or deny the allegations of

paragraph 6 and therefore denies the same.

7. Respondent is without sufficient information to admit or deny the allegations of paragraph 7 and therefore denies the same.

8. Respondent is without sufficient information to admit or deny the allegations of paragraph 8 and therefore denies the same.

9. Respondent is without sufficient information to admit or deny the allegations of paragraph 9 and therefore denies the same.

10. Respondent is without sufficient information to admit or deny the allegations of paragraph 10 and therefore denies the same.

11. Respondent is without sufficient information to admit or deny the allegations of paragraph 11 and therefore denies the same.

12. Denied.

13. Denied.

14. Denied.

15. Denied.

AFFIRMATIVE DEFENSES

1. Petitioner's Petition to Cancel should be dismissed for failure to state a claim upon which relief can be granted.

2. There is no likelihood of confusion, mistake or deception of the purchasing public between Respondent's mark and Petitioner's mark, particularly when considered in their entireties. Respondent's mark is distinctly different from Petitioner's mark in concept, sound and appearance. The only common portion between Respondent's mark and Petitioner's mark is the term "eco," a common term known and used in the manufacture, sale and distribution of household cleansers. At

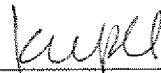
best, Petitioner's use of a commonly used term narrows the protection to which Petitioner's mark is entitled and forecloses Petitioner's right to bar Respondent's use and/or registration of its mark.

3. Petitioner's claims are barred by the doctrine of laches.
4. Petitioner's claims are barred by the doctrines of estoppel and waiver.
5. Petitioner has not and will not sustain damage, injury or prejudice as a result of Respondent's mark ECOSENSE, Serial No.: 2371074.

Wherefore, Respondent prays that the Petition for Cancellation be dismissed with prejudice.

Dated this 7th day of June, 2006.

Respectfully submitted,



H. Dickson Burton
Krista Weber Powell
TRASKBRITT, P.C.
230 South 500 East, Suite 300
P.O. Box 2550
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CERTIFICATE OF MAILING AND SERVICE

I hereby certify that the foregoing is being filed electronically with the UNITED STATES
PATENT AND TRADEMARK OFFICE, Trademark Trial and Appeal Board
and a true and correct copy of the same was served by first class mail, postage prepaid, this 7th day of
June, 2006, on the following:

Scott W. Johnston
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P.O. Box 2910
Minneapolis, MN 55402-9944

